

IN THE UNITED STATES DISTRICT COURT  
FOR THE SOUTHERN DISTRICT OF TEXAS  
HOUSTON DIVISION

DANIEL MIRANDA,

Plaintiff,

V.

ROSS DRESS FOR LESS, INC.

Defendant.

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CIVIL ACTION NO. \_\_\_\_\_  
**JURY**

**NOTICE OF REMOVAL**

TO THE HONORABLE UNITED STATES DISTRICT COURT:

Defendant Ross Dress for Less, Inc. (“Ross”) hereby files this Notice of Removal pursuant to 28 U.S.C. §§ 1332, 1441, and 1446, removing the above-captioned case to the United States District Court for the Southern District of Texas, Houston Division. The grounds for removal are as follows:

**I. Introduction**

1. Plaintiff Daniel Miranda (“Plaintiff”), at the time this action was commenced, was, and still is, a resident and citizen of Texas.

2. Ross, at the time this action was commenced, was, and still is, a corporation formed under the laws of California and headquartered in California.

3. Plaintiff claims that on or about July 7, 2020, was at the Ross store located at 8066 S. Gessner, Houston, Harris County, Texas 77036 when Plaintiff claims an employee who had shopping carts in his hand, hit Plaintiff with the bar handle of a shopping cart on his lower back while he was fixing the baskets in the store, causing Plaintiff to fall backwards. Plaintiff’s

Original Petition at pp. 2-3. Plaintiff contends that he has sustained serious personal injuries for which he had to seek the care of medical professionals. *Id.*

4. On or about April 1, 2022, Plaintiff commenced a lawsuit in the 113<sup>th</sup> Judicial District Court of Harris County, Texas, Cause No. 2022-19885, styled *Daniel Miranda v Ross Dress for Less, Inc.* at p. 1. Plaintiff requested a citation for service of process on or about April 6, 2022. Defendant was served on or about April 8, 2022.

5. Plaintiff avers, inter alia, that Ross was negligent in failing to maintain its premises, among other things. *Id.* at p. 6-7. Consequently, Plaintiff seeks to recover damages for negligence. *Id.*

## **II. Grounds for Removal**

### **A. Complete Diversity of Citizenship Exists Between the Parties and the Amount in Controversy Exceeds \$75,000.00.**

6. Plaintiff is a citizen and resident of Texas. Ross is a citizen and a resident of California. Thus, the parties are completely diverse. *See* 28 U.S.C. § 1332(a).

7. Plaintiff is seeking damages in excess of \$75,000.00. In particular, Plaintiff's petition seeks "monetary relief over \$1,000,000.00". *See* Plaintiff's Original Petition at p. 10. Therefore, the amount in controversy exceeds \$75,000.00.

### **B. Venue is Proper in This Division and in This District.**

8. Plaintiff filed this action in Harris County, Texas. The Houston Division of the Southern District of Texas encompasses Harris County, Texas. Thus, this district and division embrace the place where the state court action is pending. *See* 28 U.S.C. §1441(a).

### **III. Procedural Requirements for Removal**

9. This Notice of Removal is filed within thirty days of the date on which Defendant received the summons and complaint. Thus, this Notice of Removal is timely. *See* 28 U.S.C. § 1446(b).

10. Copies of all processes, pleadings, and orders have been filed separately with this Court. *See* 28 U.S.C. § 1446(a).

11. Pursuant to Local Rule 81 of the Southern District of Texas, the following documents are attached to this Notice of Removal: copy of all processes, attached hereto as Exhibit “A”; all pleadings and orders signed by the Judge attached hereto as Exhibit “B”; an Index of Matters Being Filed, attached hereto as Exhibit “C”; and a list of all Counsel of Record, including addresses, telephone numbers and parties represented is attached hereto as Exhibit “D”.

12. A copy of this Notice of Removal will be filed with the Harris County District Clerk’s office promptly and will be served on Plaintiff promptly. *See* 28 U.S.C. § 1446(d); *see also Nixon v. Wheatley*, 368 F. Supp. 2d 635, 640 (E.D. Tex. 2005) (Crone, J).

13. The filing fee has been paid to the Clerk.

14. Defendant hereby requests a trial by jury.

### **IV. Prayer**

15. WHEREFORE, PREMISES CONSIDERED, Defendant Ross prays that the above-styled action now pending in the 113<sup>th</sup> Judicial District Court of Harris County, Texas be removed there from to this Honorable Court.

16. This Notice of Removal is filed subject to and without waiver of any defenses or objections to Plaintiff's Original Petition as allowed by the Federal Rules of Civil Procedure or by any applicable law.

Respectfully submitted,

**GERMER PLLC**

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**CERTIFICATE OF SERVICE**

I hereby certify that a true and correct copy of the foregoing instrument has been duly sent via CM/ECF on April 28, 2022 to all counsel of record, as follows:

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/s/ Troy A. Williams

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